

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

M.A., a minor, by and through her Natural
Mother and Next Friend, P.K.,

Plaintiff,

v.

VILLAGE VOICE MEDIA HOLDINGS, LLC,
d/b/a backpage.com,

Defendant.

Case No. 4:10-CV-1740 TCM

**DEFENDANT'S MOTION TO DISMISS
PURSUANT TO FED. R. CIV. P. 12(b)(6)**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), defendant Backpage.com, LLC (misnamed as "Village Voice Media Holdings, LLC") moves to dismiss plaintiff's complaint for failure to state a claim upon which relief may be granted.

Section 230 of the Telecommunications Act of 1996, 47 U.S.C. § 230 ("Section 230"), sometimes referred to by the title of the chapter in which it was contained, the Communications Decency Act ("CDA"), precludes civil liability on Internet intermediaries for publication or dissemination of third party content. Plaintiff's complaint alleges a civil cause of action for the publication and dissemination of an advertisement that was created by Latasha Jewell McFarland, a third-party.

Backpage.com, LLC, as a provider of an interactive computer service (the Backpage.com website), is immune from liability for the acts alleged by plaintiff (publication and dissemination of an advertisement) because the content for the advertisement was provided by another information content provider (Ms. McFarland). 47 U.S. C. § 230(c); *see also Doe v. Bates*, 2006 WL 3813758 (E.D. Tex., Dec. 27, 2006).

Furthermore, the complaint's conclusory allegations that Backpage.com has knowledge of illegal activities occurring on the website is irrelevant to the issue of Section 230 immunity as a matter of law and, even if they were somehow relevant (or true), plaintiff failed to plead her factual allegations to the standard required by Fed. R. Civ. P. 8(a)(2); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007); *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009).

This motion is supported by the pleadings in this matter, and a supporting Memorandum of Law.

Respectfully submitted,
THOMPSON COBURN LLP

By: /s/ Michael L. Nepple
Mark Sableman #36276 MO
Michael L. Nepple #42082 MO
One US Bank Plaza
St. Louis, Missouri 63101
(314) 552-6000 (telephone)
(314) 552-7000 (facsimile)
msableman@thompsoncoburn.com
mnepple@thompsoncoburn.com

Attorneys for Defendant Backpage.com, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was filed electronically with the Clerk of the Court to be served via operation of the Court's electronic filing system this 22nd day of November, 2010, upon all counsel of record.

/s/ Michael L. Nepple